

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

July 28, 2005

DIVISION ONE

B177898 Marcos Curiel (Not for Publication)

v.
P.O.D., et al.

The judgment is affirmed. P.O.D. is entitled to its costs on appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Mallano, J.

B181399 People (Not for Publication)

v.
Rudolph C. Clark

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Mallano, J.

B172850 Vista Del Mesa, LLC et al. (Not for Publication)

v.
Texaco Refining and Marketing et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Mallano, J.
 Rothschild, J.

July 28, 2005 (Continued)

DIVISION ONE (Continued)

B179697 People (Not for Publication)
v.
Joe O. Galinda

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

B177983 Jerry Kabilka (Not for Publication)
v.
Robin Olgin

The judgment is affirmed. The trial court is to consider and decide any motion for attorney fees incurred in defending against this appeal which defendant makes. Defendant is to recover her costs on appeal.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

B179742 People (Not for Publication)
v.
Kien T.

The judgment is affirmed.

Rothschild, J.

We concur: Mallano, Acting P. J.
 Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B180562 Oganessian (Not for Publication)
 v.
 Farmers Insurance Company

The order of dismissal is affirmed with respect to General Family Health Resource, Inc. but reversed with respect to appellant. We direct the trial court to enter a new and different order sustaining the demurrer but granting appellant leave to amend. Appellant is to recover his costs on appeal.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Mallano, J.

B174564 Pennington (Not for Publication)
 v.
 Harrell et al.

We reverse the judgment and direct the trial court to hold a new evidentiary hearing limited to the issue of whether hostility between Harrell, Kebre and appellant impaired the administration of the trust, thus requiring Harrell's and Kebre's removal as trustees. After it determines that issue, we direct the trial court to prepare a new judgment in accord with its findings. In no event is the new judgment to rule that appellant has violated the no contest clause of the trust instrument or to remove him

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Mallano, J.

July 28, 2005 (Continued)

DIVISION ONE (Continued)

B179313 People v. Sierra (Not for Publication)

The judgment is affirmed.

Spencer, P.J.

We concur: Mallano, J.
 Rothschild, J.

B176476 People (Not for Publication)
v.
Maldonado

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Rothschild, J.

B170559 People (Not for Publication)
v.
Small

The judgment is affirmed.

Spencer, P.J.

We concur: Mallano, J.
 Rothschild, J.

July 28, 2005 (Continued)

DIVISION TWO

B176070 Debay (Not for Publication)
v.
Ortiz

Debay's appeal is hereby dismissed.

Ashmann-Gerst, J.

We concur: Doi Todd, Acting P.J.
Suzukawa, J. (Assigned)

B177962 Smith (Not for Publication)
v.
Las Virgenes Unified School District

The dismissal is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
Doi Todd, J.

B175179 People's Choice Wireless, Inc., et al. (Certified for Publication)
v.
Verizon Wireless

The judgment is dismissal is affirmed. Verizon shall recover its costs on appeal.

Ashmann-Gerst, J.

We concur: Doi Todd, Acting P.J.
 Nott, J. (Assigned)

July 28, 2005 (Continued)

DIVISION TWO (Continued)

B177131 In Re N.G. (Not for Publication)
Los Angeles County, D.C.S.
v.
N.G.

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Doi Todd, Acting P.J.
Nott, J. (Assigned)

[illegible]

The Court:

The judgment is affirmed.

Boren, P.J., Doi Todd, J., Ashmann-Gerst, J.

B174824 People v. Sanders (Not for Publication)

The Court:

The judgment is affirmed.

Boren, P.J., Ashmann-Gerst, J., Suzukawa*

DIVISION FOUR

B177821 Trani (Not for Publication)

v.

The Weymouth Trust et al.

The judgment is affirmed. Respondent(s) to recover costs.

Hastings, J.

We concur: Epstein, P.J.
Curry, J.

B175967 People (Not for Publication)

v.

Ortega

The judgment is reversed with respect to counts 4 and 5, and is affirmed in all other respects. The superior court is directed to forward to the Department of Corrections a corrected abstract of judgment deleting the convictions and sentences imposed on these counts.

Curry, J.

We concur: Hastings, Acting P.J.
Willhite, J.

B174147 People (Not for Publication)

v.

Cruz

The matter is remanded for resentencing in accordance with this opinion. In particular, appellant must be resentenced to a life term with the possibility of parole on the attempted murder charge, and the section 12022.7 enhancement must be stricken. The judgment of conviction is otherwise affirmed.

Hastings, J.

We concur: Epstein, P.J.
Curry, J.

July 28, 2005 (Continued)

DIVISION FOUR (Continued)

B173809 People (Not for Publication)
v.
Jones

The judgment is affirmed.

Hastings, J.

We concur: Epstein, P.J.
Curry, J.

B179218 Los Angeles County, D.C.S. (Not for Publication)
v.
C.H.C.

The orders terminating parental rights, discontinuing visitation, and denying the section 388 petition are reversed. The court is directed to ensure that proper notice is given under the ICWA. If, after notice is given and no tribe intervenes, the orders of the juvenile court shall be reinstated.

Hastings, Acting P.J.

We concur: Curry, J.
Willhite, J.

B173960 Turner et al. (Not for Publication)
v.
Kaiser Foundation Health Plan, Inc. et al.

The judgments entered on January 23, 2004 and February 18, 2004 are affirmed. The writ of supersedeas issued on August 24, 2004 is to remain in effect until the remittitur issues in the appeal taken from the judgment entered on February 18, 2004. The respondents in each appeal are to recover their costs.

Willhite, J.

We concur: Epstein, P.J.
Curry, J.

DIVISION FOUR (Continued)

B181801 Cynthia M. (Not for Publication)

v.

Superior Court, Los Angeles County
(DCFS, r.p.i.)

The dispositional order terminating reunification services to mother is affirmed. The order setting a section 366.26 hearing is vacated. The matter is remanded with directions that DCFS provide proper notice under the ICWA. If, after receiving notice, no tribe intervenes, the juvenile court shall reinstate the orders; otherwise that order shall remain vacated. No termination of parental rights hearing (§366.26) shall be held except pursuant to this disposition.

Epstein, P.J.

We concur: Hastings, J.
Curry, J.

DIVISION SIX

B175728 People (Not for Publication)

v.

Toney

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

July 28, 2005 (Continued)

DIVISION SIX (Continued)

B177528 People (Not for Publication)
v.
Choice

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Yegan, J.

B171514 People (Not for Publication)
v.
Fyffe

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Perren, J.

B177644 People (Not for Publication)
v.
Daniels

The order of recommitment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

July 28, 2005 (Continued)

DIVISION SIX (Continued)

B178854 People (Not for Publication)
v.
Hunter

The judgment (order of commitment) is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

[illegible]

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

B183894	Rubenstein v. Worker's Compensation Appeals Board
B184602	The 4600 Group, etc. v. Worker's Compensation Appeals Board

Filed order consolidating above captioned appeals.

July 28, 2005 (Continued)

DIVISION SEVEN

B178480 Los Angeles County, D.C.S. (Certified for Publication)
v.
Wilford J. Sr.,

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.
 Zelon, J.

B174254 Cohen (Not for Publication)
v.
Bank Leumi Le-Israel

The order granting Bank Leumi's motion to quash service of summons, quashing summons and dismissing the complaint is reversed. The matter is remanded to the trial court with directions to consider Bank Leumi's alternative motion to dismiss the complaint based on the forum selection clauses in the agreements establishing the bank accounts at issue in the case and to conduct further proceedings not inconsistent with this opinion. Cohen is to recover her costs on appeal.

Perluss, P.J.

We concur: Johnson, J.
 Zelon, J.

DIVISION EIGHT

Court convened at 9:00 a.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Emma Jean Amos, Deputy Clerk.

DIVISION EIGHT (Continued)

Each of the following:

B173149 People v. Magna
B178668 People v. Morales
B175719 People v. Svelund
B177441 People v. Jones
B180341 People v. Carpenter

Argument waived, cause submitted.

B175656 Johnson et al.,
 v.
 Kissinger

Merits:

Argued by Walter L. Gordon for appellant and no appearance for respondent. Cause submitted.

B176326 People
 v.
 Jackie S.,

Merits:

Argued by Kiana Sloan-Hillier for appellant and by David A. Voet, Deputy Attorney General for respondent. Cause submitted.

B174616 People
 v.
 James

Merits:

Argued by Donald R. Tickle for appellant and by Jason C. Tran, Deputy Attorney General for respondent. Cause submitted.

DIVISION EIGHT (Continued)

B175361 People
 v.
 Gutierrez

Merits:

Argued by Barbara S. Perry for appellant and by Susan S. Pithey, Deputy Attorney General for respondent. Cause argued. Submission is deferred until October 26, 2005.

B177642 Elliott
 v.
 Firearms Training Systems, Inc.,

Merits:

Argued by Kenneth M. Miller for appellant and by Thomas H. Edwards for respondent. Cause submitted.

B177202 People
 v.
 Sintay

Merits:

Argued by Barry O. Bernstein for appellant and by Zee Rodriguez, Deputy Attorney General for respondent. Cause submitted.

B176654 Coapstick
 v.
 Kaiser Foundation Hospitals et al.,

Merits:

Argued by Louise Coapstick, appellant in propria persona and by Lawrence Cox for respondents. Cause submitted.

DIVISION EIGHT (Continued)

B176864 Nachor et al.,
v.
City Of Los Angeles

Merits:

Argued by Terran T. Steinhart for appellants and by Amy Jo Field, Deputy City Attorney for respondent. Cause submitted.

B176059 Readylink Healthcare
v.
Lynch

Merits:

Argued by Frederick S. Reisz for appellant and by Roy G. Weatherup for respondent. Cause submitted.

B177648 Bickelmann
v.
Naionwide Express Mortgage, Inc. et al.,

Merits:

Argued by Jaime R. Schloss for appellant and by Terri Breer for respondents. Cause submitted.

B182219 Iversen
v.
Superior Court, Los Angeles County
(Virgil, r.p.i.)

Merits:

Argued by Guy Iversen for petitioner and by Larry M. Hoffman for real party in interest. Cause submitted.

DIVISION EIGHT (Continued)

B178714 Los Angeles County, D.C.S.
 v.
 Tanny M.,

Merits:

Argued by Janette F. Cochran for appellant and by Judith A. Luby, Deputy County Counsel for respondent. Cause submitted.

B179163 People
 v.
 Niroomandi

Merits:

Argued by Sherwin Edelberg for appellant and by Lance W. Winter, Deputy Attorney General for respondent. Cause submitted.

B175028 Hobbs
 v.
 City Of Los Angeles

Merits:

Argued by Allen B. Felahy for appellant and by Carol A Shaw and Brian Cheng for respondents. Cause submitted.

Court recessed at 2:04 p.m.

Court reconvened at 2:41 p.m.

Present: Cooper, P.J., Rubin, J., Boland, J. and Emma Jean Amos, Deputy Clerk.

DIVISION EIGHT (Continued)

B176570 Gillis
 v.
 Wells

Appearances:

William G. Wells for appellant and by William R. Baerg for respondent. In open court appellant's motion to consider additional evidence was denied. Argument waived, cause submitted.

B181214 Suad Salim Rayyis
 v.
 Superior Court, Los Angeles County
 (The People, r.p.i.)

Merits:

Argued by Richard A. Moss for petitioner and by Hyman Sisman, Deputy District Attorney for real party in interest. Cause submitted.

B172572 Compton Unified School District
 v.
 Kings

Merits:

Argued by Michael Feinberg for appellant and by Barrett Green for respondent. Cause submitted.

B183103 Melanie R.,
 v.
 Superior Court, Los Angeles County
 (DCFS, r.p.i.)

Merits:

Argued by Melanie R. appellant, in pro propria persona and by Lisa Proft, Deputy County Counsel appearance only. Cause submitted.

DIVISION EIGHT (Continued)

B180181 Does 1-26
v.
Superior Court, Los Angeles County
(Roman Catholic Archbishop of Los Angeles et al., r.p.i.)

Merits:

Argued by Donald Steier for petitioner and by J. Michael Hennigan and Raymond P. Boucher for real parties in interest. Cause submitted.

B174111 Turner
v.
Aon Corporation et al.,

Merits:

In open court the parties were informed that the court is unable to hold a closed session. Argued by Alex Hardiman for appellant and by Laurie J. Helper for respondents. Cause submitted.

B167287 Kelly
B171369 v.
Stamps. Com, Inc

Oral argument continued to September 29, 2005, at 1:00 p.m.

Each of the following:

B177082 Tire Distributors, Inc. v. A-Line
B167850 People v. Mauricio Morales

Matter ordered off calendar.

Court adjourned.

July 28, 2005 (Continued)

DIVISION EIGHT (Continued)

B174669	People v. Saldana, Jr.	(Not for Publication)
B178228	In re Saldana, Jr. on Habeas Corpus	

The judgment is affirmed on appeal. However, the petition for writ of habeas corpus is granted. The case is remanded to the trial court with directions to appoint new counsel to represent appellant and to permit counsel to file a Penal Code section 1538.5 motion. If the trial court denies the suppression motion, it is directed to reinstate the judgment. If the trial court grants the suppression motion, the district attorney may elect whether and how to proceed with respect to a retrial.

Boland, J.

We concur: Rubin, Acting P.J.
Flier, J.

B161255	McTiernan, v. Dubrow
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The Court:

It is hereby ordered that the submission order of April 29, 2005, in the above-entitled matter, be vacated for the reasons that due to press of the other court business and the complexity of the issues, additional time is needed to complete & file the decision in this matter. Therefore, it is ordered that pursuant to rule 23(e)(1), California Rules of Court, the cause is ordered resubmitted as of this date.